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May 5, 1997

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: PR Docket No. 89-552  
ComTech Communications, Inc.  
Petition for Reconsideration of Third Report & Order

Dear Mr. Caton:

Transmitted herewith, on behalf of ComTech Communications, Inc., are an original and four copies of its Petition for Reconsideration in the above-referenced proceeding.

Should there be any questions concerning this transmittal, please do not hesitate to contact the undersigned.

Sincerely,



Russell H. Fox

Enclosures

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MAY 25 1997

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Amendment of Part 90 of the )  
Commission's Rules to Provide )  
for the Use of the 220-222 MHz Band )  
by the Private Land Mobile )  
Radio Service )

PR Docket No. 89-552

Implementation of Sections 3(n) and 332 )  
of the Communications Act )

GN Docket No. 93-252

Regulatory Treatment of Mobile Services )

Implementation of Section 309(j) of the )  
Communications Act-Competitive )  
Bidding, 220-222 MHz )

PP Docket No. 93-253

To: The Commission

PETITION FOR RECONSIDERATION  
OF COMTECH COMMUNICATIONS, INC.

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May 5, 1997

## SUMMARY

ComTech urges the Commission to reconsider several aspects of its Third Report and Order. First, ComTech requests that the Commission amend FCC rule section 90.739 to permit entities to obtain more than one Phase I nationwide authorization. ComTech believes that section 90.739 imposes a regulatory burden that will prevent the authorization of spectrum efficient systems and is not justified in light of CMRS competition.

Because 220 MHz licensees are now permitted to offer paging services, ComTech petitions the Commission to reconsider its decision to limit 220 MHz licensees to an unrealistically low ERP when they operate base stations on mobile channels. Similar facilities, operated on VHF paging stations, are not subject to such restrictive limitations. ComTech also requests that the Commission eliminate the emission mask for inner channels of aggregated spectrum from combined multiple authorizations.

The Commission adopted a spectrum efficiency standard that essentially renders the newly-obtained ability to provide of paging services a meaningless benefit. ComTech demonstrates that the Commission's spectrum efficiency policy in this regard is inconsistent with its recent Refarming and Paging decisions. ComTech also demonstrates that it would be in the public interest not to apply spectrum efficiency standards to 220 MHz paging providers.

ComTech filed a Petition for Declaratory Ruling in 1995, requesting that the Commission forebear from requiring Phase I nationwide licensees from filing site-specific applications for operating authority. ComTech renews its earlier Petition and urges the Commission to resolve the issues contained therein.

Newly-adopted rule section 90.769 contains a population-based coverage requirement for Phase II nationwide licensees. Because of the rule's imprecise wording, ComTech petitions the Commission to clarify that section 90.769 only applies to Phase II nationwide licensees. Finally, ComTech urges the Commission to restore regulatory parity between Phase I nationwide licensees and other CMRS licensees by amending its rules to delete the five-channel per site requirement contained in its construction requirements.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 90 of the	)	
Commission's Rules to Provide	)	
for the Use of the 220-222 MHz Band	)	PR Docket No. 89-552
by the Private Land Mobile	)	
Radio Service	)	
	)	
Implementation of Sections 3(n) and 332	)	
of the Communications Act	)	GN Docket No. 93-252
	)	
Regulatory Treatment of Mobile Services	)	
	)	
Implementation of Section 309(j) of the	)	
Communications Act-Competitive	)	PP Docket No. 93-253
Bidding, 220-222 MHz	)	
To: The Commission		

PETITION FOR RECONSIDERATION  
OF COMTECH COMMUNICATIONS, INC.

ComTech Communications, Inc. ("ComTech" or the "Company"), by its attorneys, pursuant to the provisions of Section 1.429 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission") hereby submits its Petition for Reconsideration in response to the Third Report and Order ("Order") adopted in the above-referenced proceeding in which the Commission adopted rules designed to govern the future operation and licensing of the 220-222 MHz band.<sup>1</sup>

<sup>1</sup> *In the Matter of Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz band by the Private Land Mobile Radio Service*, PR Docket No. 89-552, Third Report and Order and Fifth Notice of Proposed Rulemaking, FCC 97-57 (released March 12, 1997).

## I. INTRODUCTION

ComTech Communications, Inc., headquartered in northern California, is one of the most active legitimate participants in the 220 MHz industry. It has already initiated the construction and operation of 220 MHz facilities in many locations. Its affiliate, ComTech Nationwide Communications, Inc., holds one of four Phase I nationwide 220 MHz authorizations. In addition to its nationwide operations, ComTech has acquired several local 220 MHz stations and manages facilities licensed to other entities.

Through the construction and operation of many 220 MHz systems to date, ComTech has demonstrated a commitment to the nascent 220 MHz industry. In addition to placing local systems in operation, ComTech has already begun to construct and operate the facilities associated with its nationwide authorization. ComTech expects to continue to be a significant participant in the 220 MHz arena.

ComTech appreciates the Commission's efforts to establish a regulatory framework designed to allow for the efficient licensing of systems in the 220-222 MHz band, to remove unnecessary regulatory burdens and enhance the competitive potential of the 220 MHz service. However, some of the actions taken in the Order are inconsistent with the stated goals to eliminate regulatory burdens and provide additional flexibility, particularly for Phase I nationwide licensees, like ComTech. Accordingly, ComTech is pleased to have this opportunity to request that the Commission reconsider several elements of the Order so that nationwide Phase I licensees are provided with the maximum opportunity to compete in the wireless communications marketplace.

## II. DISCUSSION

### A. The Commission Should Permit the Acquisition of Multiple Nationwide Licenses

In the Order the Commission decided not to impose any limit on the number of Phase II nationwide channel blocks that could be obtained by a single licensee. The Commission reasoned that because 220 MHz licensees will face competition from other services, "there is no reasonable basis to fear any threat to competition will arise as a result of one 220 MHz service licensee to acquire multiple nationwide channel blocks."<sup>2</sup>

The Commission's rules impose a restriction, however, on the number of Phase I nationwide channel blocks that could be acquired by a single entity (either an existing Phase I licensee or a third party).<sup>3</sup> Accordingly, ComTech asks that the Commission reconsider its decision not to amend its rules to permit the aggregation of Phase I nationwide channels. Phase I licensees will also compete against a variety of commercial mobile radio service ("CMRS") providers (including Phase II nationwide licensees). They should not be competitively impaired by any artificial limit on the number of channels they can obtain. Moreover, the Communications Act envisions that similar CMRS providers be regulated in the same fashion.<sup>4</sup> From the consumer's perspective, the service available from a Phase I

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<sup>2</sup> Order at para. 53.

<sup>3</sup> 47 C.F.R. § 90.739 (1996).

<sup>4</sup> See 47 U.S.C. § 309(j)(6)(D) (1996) (prohibiting FCC from providing newly-licensed (auctioned) CMRS licensees with rights which are not accorded to existing licensees in the same service); see also Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, § 6002(d)(3)(B), 107 Stat. 312 (largely codified at 47 U.S.C. § 332 *et seq.*) (requiring FCC to subject grandfathered PMRS providers to technical regulations that are comparable to "substantially similar" common carrier services).



licensee and a Phase II licensee may be identical. There is no reason, therefore, that one category be saddled with a regulatory burden that the other is not.

ComTech recognizes that the Commission wishes to ensure that spectrum is fully utilized and that entities do not traffic in FCC authorizations. However, the current regulations provide for channel recapture in the event that licensed facilities are not timely constructed. ComTech recommends that those construction requirements apply to Phase I nationwide channels, regardless if they remain authorized to the original licensee or acquired by another entity.

**B. The Commission Should Revise the ERP Limits on Mobile and Fixed Facilities**

The Order imposes limitations on antenna height and power for 220 MHz stations that operate base or fixed stations on “mobile” channels. ComTech disagrees with the Commission’s approach for two reasons. First, at least with respect to nationwide licensees, operation of base or fixed stations on mobile channels will certainly not interfere with co-channel licensees. No other licensee, besides the nationwide license holder, will be authorized to use the mobile side channel, anywhere throughout the country.

Nevertheless, ComTech recognizes that the limitation on antenna height and power is designed primarily to protect adjacent channel users. However, the Commission’s approach is different from regulations governing similar services. For example, Section 22.531 of the rules specifies channels that may be employed for one-way paging operations in the VHF band. Section 22.535 states that the ERP of base station transmitters employing these channels must not exceed 500 watts if they are located less than 5 kilometers from licensed adjacent channels authorized for mobile operations pursuant to Section 22.561 of the rules. The adjacent channel

interference potential is no greater in the VHF band covered by Section 22.535 of the rules than it is for 220-222 MHz systems. Therefore, the Commission should revise its rule to reflect the same height-power limits and adjacent channel interference restrictions as provided in Section 22.535 of the FCC's rules.<sup>5</sup>

Although the Commission changed its rules to permit paging on the 220-222 MHz channels, it did not change the height/power restrictions contained in Section 90.729 of the rules. The Commission should have amended these restrictions, particularly with respect to nationwide licensees who operate paging stations. Section 22.535 of the rules specify that paging stations in the VHF band may operate with an effective radiated power of 1400 watts.<sup>6</sup> If the Commission truly intends for licensees of 220 MHz stations to offer competitive paging systems, they should be permitted to operate with similar technical parameters. ComTech recognizes that operation at effective radiated power significantly higher than co-channel licensees would cause interference concerns. However, the operation of paging stations by nationwide licensees does not present this issue. Accordingly, the power limitations of

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<sup>5</sup> Accordingly, the Commission should take this opportunity to modify the sub-band limitations and the mobile power restrictions for paging facilities to conform to those specified in Section 22.535. ComTech recognizes that the adjacent channels employed for mobile operations specified in Section 22.561 are 30 kHz removed from the base station channels indicated in Section 22.531 of the rules. Because in the 220 MHz band, the adjacent channels may be closer than 30 kHz, ComTech expects to recommend a sliding scale of antenna height-power restrictions for adjacent channels closer than 30 kHz.

<sup>6</sup> ComTech is aware that the Part 22 rules also contain height and power limits. However, those limits are generally designed to limit a licensee's coverage area. Because there are no limits on a nationwide licensee's coverage area, there should be no limitation on the power or antenna height at which nationwide facilities operate (except in international border areas, as treaties and other agreements dictate). This approach would be similar to how the Commission has treated power and height-power restrictions for "interior" sites in the UHF and VHF one and two way paging services. See e.g., 47 C.F.R. § 22.535(d) (1996).

Section 90.729 should be modified for licensees operating nationwide paging stations.<sup>7</sup>

**C. The Commission Should Exempt Paging Operations from the Efficiency Standards Adopted**

The Third Report and Order adopts a spectrum efficiency standard for licensees that aggregate contiguous spectrum and who use equipment that does not employ five kHz channelization. ComTech appreciates that the Commission has provided a mechanism for manufacturers to demonstrate that their equipment is as spectrally efficient as equipment that otherwise meets the efficiency standard. However, the spectral efficiency standard is fundamentally inconsistent with the rules that permit licensees to conduct paging operations on 220 MHz systems. Accordingly, the efficiency standard should be amended to exclude equipment used to provide paging services.

In the Order the Commission specifically permits all 220 MHz licensees to offer paging services. However, the most efficient one-way paging technology currently commercially available does not conform to the spectrum efficiency standard adopted. Today, one-way paging channels are generally 25 kHz wide. The Commission recognized this standard channel bandwidth in its recent Paging Second Report and Order where it based its decision not to permit disaggregation of paging channels on the uncertainty that paging technology was feasible on channel bandwidths narrower than 25 kHz.<sup>8</sup> However, with 25 kHz channels, one-

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<sup>7</sup> 220 MHz geographic area licensees operating paging stations should also be permitted to operate with greater effective radiated power than that specified in Section 90.729. In order to protect co-channel licensees, geographic licensees should be required to limit their power for paging stations to the limits imposed by Section 90.729 of the rules when they operate facilities near the border of their geographic licenses (including "borders" with incumbent site-specific licensees).

<sup>8</sup> *In the Matter of Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*, WT Docket 96-18, Second Report and Order and Further Notice of Proposed Rule Making, FCC 97-59 (released February 24, 1997).

way paging systems currently transmit at a maximum data rate of 6400 bits per second (or .256 bits per second per hertz).<sup>9</sup> This data rate is well below the 4800 bps per 5 kHz specified in the Commission's rules (.96 bits per second per hertz). ComTech is unaware of manufacturers investigating the use of one-way paging transmitters capable of greater transmitter speeds. Even if manufacturers began the research necessary to produce equipment capable of meeting the faster data rate specified in the Commission's rules, such development would likely take many years and not be commercially available until the efficiency standard is eliminated in 2002.<sup>10</sup>

To the extent that the FCC believed that the data rate adopted accommodated current one-way paging technologies, that assumption is incorrect. ComTech notes that Commissioner Chong asserts that the efficiency standard adopted in this proceeding is "similar to that the standard we recently adopted in our refarming decision."<sup>11</sup> This assertion

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<sup>9</sup> This data rate is based on four level Flex technology. The only commercially available two-way paging technology of which ComTech is aware, Inflexion, is not commercially available for one-way data paging and presently operates at one voice channel per 50 kHz. While the efficiency of this technology may improve in the future, it would not meet the spectral efficiency standard today.

<sup>10</sup> The current 6400 bps data rate available today for paging technology (which took five years to become commercially available) is five times faster than the data rate available five years ago. Accordingly, while ComTech expects that manufacturers may ultimately be able to produce equipment that meets the Commission's rules, it is uncertain how long the research, development, and production of that equipment will take. Because the Commission has permitted Phase I nationwide licensees to meet their construction requirements by constructing paging stations, and because paging transmitters that meet the spectral efficiency requirements are not commercially available, ComTech requests that, if the rules remain the same, the Commission toll ComTech's construction requirements until such time as equipment that meets the efficiency standard is commercially available. The Commission should also waive the provisions of Section 90.733 to allow a Phase I nationwide licensee to meet its two year construction benchmark prior to commencing paging service.

<sup>11</sup> Order at Separate Statement of FCC Commissioner Rachelle B. Chong.

is inaccurate with respect to the treatment of paging systems. In the refarming decision, the FCC specifically exempted paging systems from meeting the efficiency standard,<sup>12</sup> likely realizing that paging could not meet the adopted efficiency standards in section 90.203 and that the measurement of efficiency for paging facilities cannot be compared to other services using the adopted benchmark. There is no reason why the Commission should conclude differently with respect to the 220 MHz service. In order to afford similar treatment to paging systems in this proceeding, the Commission should also exempt paging systems operating at 220 MHz from the efficiency standard.

Commissioner Chong also states that paging technologies should be able to meet the efficiency standard, citing as an example Motorola's two-way<sup>13</sup> Inflexion paging system, which has a theoretical maximum data rate of 112,000 bps. However, as noted below, this technology is not yet commercially available to transmit paging data. Moreover, as Commissioner Chong notes, Inflexion requires a minimum of 50 kHz of spectrum. However, 50 kHz of contiguous spectrum will only be available to one regional and the three nationwide Phase II licensees. Remaining systems will only be authorized for a maximum of 25 kHz of contiguous spectrum and could not, therefore, meet an equivalent data rate. Accordingly, for those licensees, the Commission has precluded paging operations by

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<sup>12</sup> *Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services*, PR Docket 92-235, Memorandum Opinion and Order, 11 FCC Rcd 17676, ¶ 26 (1996) (amending section 90.203(j)(7) of the Commission's rules to explicitly state that paging channels are exempted from the newly-adopted narrowband requirements).

<sup>13</sup> While Commissioner Chong cites Inflexion as an example of how paging could meet the efficiency standard, Inflexion is a two way paging technology. The rules specifically permit only one-way paging on 220 MHz channels. As noted above, Flex technology, the most advanced one-way paging system available, transmits with only 6400 bps per 25 kHz, well below the required standard.

erroneously assuming that they will be able to conform to the adopted spectral efficiency standards.

Moreover, the Inflexion technology which is advertised to achieve the data rate cited by Commissioner Chong employs a return channel on which subscribers can respond. Paging manufacturers indicate that they are not developing two-way paging units with a return channel on channels below 800 MHz because the units would be many times the size of today's two-way paging transmitters and would not be commercially acceptable. Accordingly, Commissioner Chong's reliance on Inflexion technology to support the proposition that paging can be accommodated at 220 MHz is misplaced. If the Commission realistically wishes to permit paging (as it should), paging transmitters should be exempted from the efficiency standard.

The Commission plainly did not mean to exclude paging operations by the use of a spectrum equivalency standard that paging equipment cannot meet. The Order states, in permitting paging, that the Commission wishes to "provide additional spectrum for a rapidly growing communications service, and to enable 220 MHz licensees to compete more effectively in the wireless marketplace...We believe that if there is sufficient consumer demand for paging services, both Phase I and Phase II licensees should have the opportunity to provide these service."<sup>14</sup> While ComTech applauds the Commission's goal, the intention will be eviscerated by a commercially unattainable spectral efficiency standard.

A rule exempting paging from the efficiency standard would recognize that it is difficult to compare the spectral efficiency of data, voice and paging systems. For example, a

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<sup>14</sup> Order at para. 95.

five-channel trunked, two-way voice dispatch system which meets the spectral efficiency standard of one voice channel per 5 kHz may realistically serve hundreds of customers in a market. However, a paging system that fails to meet the efficiency standard, because it operates at 6400 bps, could serve several hundred thousand customers in the same geographic area on 25 kHz. If the Commission truly wishes to permit paging systems at 220 MHz, it should not object to the implementation of such a system, which plainly serves many times as many customers as two-way voice systems, but which otherwise fails to meet the established efficiency standard.

ComTech recognizes that the new regulations provide that manufacturers may demonstrate that their systems are spectrally efficient, even if the system does not meet the efficiency standard. Nevertheless, that process needlessly introduces uncertainty in the case of paging systems. Without a particular demonstration of technology, the Commission should be aware that paging systems will serve many times more customers in an area than two-way voice systems. Accordingly, and because the Commission has treated paging systems in a similar fashion in the refarming decision, there is no reason for the Commission not to exempt paging systems from the efficiency standards specified in the regulations.

**D. The Commission Should Eliminate Emission Mask Requirements for “Inner” Channels on Multiple, Contiguous Licenses**

The Order eliminates the emission mask at the edge of the “inside” channels for Phase I and Phase II licensees authorized on contiguous channel blocks. Yet, revised rule section 90.733(d) and (e) only addresses instances in which licensees use channels that are wider than 5 kHz. The regulations do not clearly address circumstances in which licensees combine multiple authorizations to use channels wider than 5 kHz. In those cases, the Commission

should only impose the emission limits specified in Section 90.210(f) on the outermost edges of the combined channels. Retention of the emission limits for the edges of channels that are combined would frustrate the Commission's goal of permitting licensees to use new, wider bandwidth technologies that meet the efficiency standard.

**E. The Commission Should Clarify that Site-by-Site Licensing is no Longer Required for any Nationwide Licensees**

The Order permits Phase I nationwide licensees (as well as all Phase II licensees) to located fixed stations anywhere within their area of operation. While ComTech appreciates the flexibility that this change provides, it urges the Commission to reconsider its failure to extend the same flexibility to all of the stations operated by Phase I nationwide licensees. On October 31, 1995, ComTech submitted a Petition for Declaratory Ruling, asking that the Commission clarify that nationwide licensees need not secure site specific authorizations.<sup>15</sup> There, ComTech demonstrated that requiring nationwide licensees to secure site specific licenses is inconsistent with recent Commission practice and otherwise imposes unnecessary administrative burdens on both the licensee and the Commission. The Commission, despite seeking comments on ComTech's petition and receiving no opposition to the relief sought, has not yet ruled on ComTech's request. Accordingly, the Commission should reconsider its failure to extend the same licensing treatment to all transmitter sites as it did to fixed stations.

**F. The Commission Must Clarify that Section 90.769 does not Apply to Phase I Licensees.**

The Commission adopted construction requirements for Phase II nationwide licensees

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<sup>15</sup> ComTech does not wish to burden the record by resubmitting its Petition for Declaratory Ruling. Nevertheless, it requests that its Petition be included herein by reference.



that are different from those imposed on Phase I nationwide licensees. In particular, Section 90.769 specifies the geographic area or population that a Phase II nationwide licensee must serve by the end of five and ten year benchmarks. Section 90.725, which governs the construction of Phase I nationwide systems, specifies the particular number and identity of markets that licensees must construct. Yet, Section 90.769 of the rules, by its terms, appears to apply to all nationwide 220 MHz systems. The Commission should clarify that Section 90.769 applies only to Phase II nationwide licensees.

ComTech's business plan is premised on the construction of facilities on a market-by-market approach, rather than to meet specified population or geographic coverage requirements. Accordingly, it would be burdensome to impose a new set of construction requirements on ComTech or any other Phase I nationwide licensee at this point. If the Commission amends the construction requirements for Phase I nationwide licensees to conform with those adopted for Phase II nationwide licensees, the timetable by which Phase I licensees are expected to meet those requirements should not begin until after the effective date of the rules adopted in this proceeding. It would be unrealistic for the Commission to retroactively apply a new construction schedule on Phase I nationwide licensees at this point.

Nevertheless, the Commission should take this opportunity to clarify its rules concerning the market-by market approach contained in Section 90.725 of the rules to specify that licensees may make reasonable adjustments to their original construction schedules. As ComTech and others have gained more experience with 220 MHz equipment, modifications to the original construction schedule may be warranted due to commercial conditions. ComTech does not seek to avoid constructing the specified number or character of markets

specified in Section 90.725 of the regulations. However, it wishes to have the flexibility to amend that schedule as circumstances change.

**G. The Commission Should Eliminate the Requirement to Construct Five Channels per Site**

The Order permits Phase I nationwide licensees to satisfy their construction requirements, after meeting their two year benchmark, by constructing paging or fixed stations. Yet, the Commission has retained the requirement in Section 90.725(a) that Phase I nationwide licensees “construct base stations having [a] minimum of five assigned nationwide channels.” This requirement is fundamentally inconsistent with the technical flexibility provided elsewhere in the Order.

First, as noted above, the Commission will now permit aggregation of contiguous spectrum, so long as the licensee meets the spectral efficiency standard. Accordingly, because licensees may potentially operate with one 25 kHz channel (or a greater channel bandwidth if more assignments are combined), it is inaccurate to require construction of five channels. More importantly, any specification of the amount of spectrum that a licensee must use to meet its construction requirement is inconsistent with the Commission’s treatment of other services and the ability of licensees to employ paging or fixed technology to meet its construction requirements.

In the personal communications services (“PCS”), among others, the Commission rejected a requirement specifying the number of channels that a licensee must operate to meet the applicable construction requirements.<sup>16</sup> Because similar CMRS services must be regulated

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<sup>16</sup> See *Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees*, WT Docket 96-148, Report and Order and Further Notice of Proposed Rule Making, FCC 96-474, ¶ 61 (1996) (“[W]hile our rules require PCS licensees to provide coverage to a certain amount

in a similar fashion, the Commission should eliminate the regulation specifying that five channels must be in operational to meet the construction requirements for 220 MHz systems. This requirement is particularly inappropriate in light of a Phase I nationwide licensee's ability to meet its construction requirements by operating paging or fixed stations. Neither paging nor fixed stations may necessary employ five channels (paging certainly would not) or even necessarily the entire 25 kHz bandwidth. Accordingly, in order to permit Phase I licensees the ability to meet those construction requirements by operating paging or fixed systems, section 90.725(a) must be amended.

### III. CONCLUSIONS

As competitive CMRS providers, 220 MHz licensees should be given the same regulatory flexibility the Commission provides to other entities that provide regional or nationwide wireless communications service. In this regard, the Commission should eliminate restrictions that prevent entities from acquiring more than one Phase I nationwide authorization and restrictions that require site-specific licensing for Phase I nationwide licensees. Because other CMRS services, such as PCS, do not have a minimum channel use requirement, ComTech also urges the Commission to delete the five-channel per site construction requirement contained in section 90.725(a) of the rules. ComTech's Petition also requests that the Commission remove unnecessary regulatory obstacles so that Phase I

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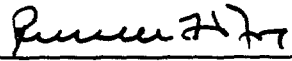
of the population of their license areas within a specified time period, there is no requirement governing the amount of spectrum that licensees must use to meet this requirement."); see also Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket 93-144, First Report And Order, Eighth Report And Order, And Second Further Notice Of Proposed Rule Making, 11 FCC Rcd 1463, ¶ 121 (1995) (concluding that channel use requirement is only appropriate for services, such as 800 MHz SMR, with extensive licensing of incumbents).

nationwide licensees may offer paging services in the same manner as similarly-situated common carrier VHF paging providers.

**WHEREFORE, THE PREMISES CONSIDERED,** ComTech Communications, Inc. submits the foregoing Petition for Reconsideration and urges the Commission to act in a manner consistent with the views expressed herein.

Respectfully submitted,

**COMTECH COMMUNICATIONS, INC.**

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Its Attorneys

Dated: May 5, 1997